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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/534,441	03/24/2000	Kenji Yoshioka	0102/0108	3435

21395 7590 12/31/2003

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EXAMINER

SHARMA, SUJATHA R

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 12/31/2003

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 16

Application Number: 09/534,441
Filing Date: March 24, 2000
Appellant(s): YOSHIOKA, KENJI

Louis Woo
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/15/03

Art Unit: 2684

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The appellant's brief include a statement that does state that claims does not stand or fall together.

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,555,286	Tendler	9-1996
5,914,675	Tognazzini	6-1999

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-17,19-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Tendler [WO 98/706229].

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Regarding claims 1,17,24,26 Tendler discloses an emergency locator device with a GPS interface that receives digital location data indicating the current location of the emergency locator device. Tendler further discloses a method where the control processor stores the data received from the GPS interface and upon detecting an emergency trigger the control processor retrieves the stored data from memory which includes the current location of the portable device, the called party number and vehicle identification data. Tendler further discloses a method where the control processor in the emergency locator device, upon detecting an emergency trigger initiates a 2-way communication link to the called station via the wireless telephone network and transfers the status data stored in the memory. Tendler further discloses the use of the emergency locator device for ordinary communications enabling the user to place regular cellular/PCS call under non-emergency condition. See background of invention and summary of invention.

Regarding claim 2,10 and 20, Tendler further discloses an interface to an external unit. See background of invention and summary of invention.

Regarding claim 3,11 and 21, Tendler further discloses a data converting means. See background of invention and summary of invention.

Regarding claim 4 and 12, Tendler further discloses a method for automatic dialing. See background of invention and summary of invention.

Regarding claims 5-8,13-16 and 22, Tendler further discloses hands free communication means. See background of invention and summary of invention.

Regarding claims 9 and 23, Tendler further discloses a cellular or personal communication system (PCS) network. See background of invention and summary of invention.

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Regarding claim 19, Tendler further discloses the called party to be a pre-determined station to receive emergency data. See background of invention and summary of invention.

Regarding claim 25, Tendler further discloses the emergency informing apparatus being mounted on the vehicle. See background of invention and summary of invention.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tendler in view of Tognazzini [US 5,914,675].

Regarding claim 18, Tendler discloses a cellular phone based automatic emergency vessel/vehicle location system and all the limitations as claimed. Tendler is silent to disclose a method where an ordinary communication call in progress is interrupted upon detection of the emergency trigger

Tognazzini teaches a method where an ordinary communication call in progress is interrupted upon detection of the emergency trigger. See Fig.2 and column 7, lines 9-67.

Therefore it would have been obvious to one with ordinary skill in the art at the time the invention was made to provide the above teachings of Tognazzini to Tendler in order to assist the user in the event of an emergency situation.

(11) Response to Argument

The appellant argues that Tendler reference does not disclose any controlling means that operates the emergency communication when a command signal exists for transmitting emergency data to a called party and operates the ordinary communication means to allow non-emergency communication to and from a desired party when the command signal does not exist.

In response to the appellant's arguments with respect to claims 1,9,17 and 23 the appellant is directed to Tendler reference where the control processor in the emergency locator device, upon detecting an emergency trigger initiates a 2-way communication link to the called station via the wireless telephone network and transfers the status data stored in the memory. Tendler further discloses the use of the emergency locator device for ordinary communications enabling the user to place regular cellular/PCS call under non-emergency condition. See background of invention and summary of invention.

Further on page 10 the appellant argues that the control means automatically causes the operation communications means to stop operation so as to automatically operate the emergency communications means to make a call with the called party and transmit the emergency data to a called party indicated by the called party in response to the command signal. This limitation is however not claimed in claims 1,9 and therefore the argument is moot regarding this limitation.

Further regarding claim 18, the appellant argues that Tognazzini does not teach the limitation as claimed. However the appellant is drawn to Tognazzini reference col. 7, line 32 – col. 8, line 35, wherein the control processor detects events related to normal operations and an emergency condition and in the event of a detection of a normal call performs a conventional

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operation and in the event of an emergency automatically switches from the normal operation to emergency operation mode. Therefore the rejection of claim 18 as discussed in the office action mailed 1/27/03 and as discussed in this office action is considered proper.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Sujatha Sharma
Examiner
Art Unit 2684


SS

December 22, 2003

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